

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANTHONY R. ROE,

Defendant.

4:16CR3067

AMENDED ORDER

After reviewing the forensic evaluation report of the Federal Medical Center, and after examining Defendant and conferring with counsel, the court finds Defendant lacks the ability to understand the nature and consequences of the pending court proceedings, and to properly assist counsel in the defense of this case.

The defendant stated in court that he was willing to take all medications prescribed to restore his competence. The court has, however, been advised that the defendant has received some, but not all such medications prescribed by the Bureau of Prisons. The court has further been advised that one medication was withheld because the defendant must be on a bland diet, and he has refused to comply with that diet restriction.

The defendant has a right to be fed while detained, but he has no constitutional right to select the level of seasoning in his food.

Accordingly,

IT IS ORDERED:

1) Beginning immediately, the Marshal (acting by and through its contract detention facility) shall provide, and the defendant shall accept the diet necessary to make the defendant able to take all medications prescribed by the Bureau of Prisons to restore competency.

2) Defendant is not permitted to receive food from any source other than the detention facility, and he is not permitted to buy food at the commissary.

3) A hearing will be held at 11:00 a.m. on May 20, 2019 before the undersigned magistrate judge in Courtroom 2, United States Courthouse and Federal Building, 100 Centennial Mall North, Lincoln, Nebraska. Defendant, defense counsel, and counsel for the government shall attend the hearing.

The purpose of this hearing is to determine whether, with the change in diet, the defendant is now taking all medications prescribed by the Bureau of Prisons and if so, whether defense counsel has noticed any improvement in Defendant's competency.¹ If the defendant is not taking the medication, the court will schedule an additional hearing as required under Sell v. United States, 539 U.S. 166 (U.S. 2003) to determine whether an order of involuntary administration of the medication is warranted.

4) Defense counsel shall provide a copy of this order to the defendant, and she shall file a certificate of service confirming that she has done so.

5) The clerk shall provide a copy of this order to the Marshal.

May 9, 2019.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge